

UNITED STATES DISTRICT COURT  
WESTERN DIVISION OF WASHINGTON  
AT TACOMA

SARA ROREBECK,

Plaintiff,

vs.

FRANCISCAN HEALTH SYSTEM, ST.  
JOSEPH MEDICAL CENTER, ABC CORP.  
AND XYZ CORP., (fictitious names whose  
identities are presently unknown), KAREN  
COOK, individually, officially and on behalf  
of her marital community with MARK  
COOK, MARCIE DOYLE, individually,  
officially and on behalf of her marital  
community with MARTY DOYLE, LISA  
MELCHIORRE, individually, officially and  
on behalf of her marital community with  
JOHN DOE MELCHIORRE; John Doe 1-5  
and Jane Doe 1-5 (fictitious individuals whose  
identities are presently unknown),

Defendants.

No. 3:18-cv-05423-RBL

**PLAINTIFF'S SECOND AMENDED  
COMPLAINT FOR DAMAGES**

1. VIOLATION OF AMERICANS WITH  
DISABILITIES ACT (ADA), 42 U.S.C.  
§§ 12101, 12131, *et seq.*
2. RETALIATION for Opposing Unlawful  
Practice Under HIPAA, 45 C.F.R. § 160,  
RCW 70.02 *et. seq.* and RCW 48.43 *et*  
*seq.*
3. DEFAMATION

DEMAND FOR JURY TRIAL

COMES NOW, Plaintiff, by and through her attorneys of record, Beverly Grant and  
Jeffery Bradley of Beverly Grant Law Firm, P.S., alleges as follows and submits the following  
Second Amended Complaint for Damages.

1 **I. PARTIES**

2 1.1 Plaintiff, Sara Rorebeck, at all times material hereto, was above the age of  
3 majority, a resident of Pierce County, Washington and an employee of Franciscan Health  
4 System and/or St. Joseph Medical Center.

5 1.2 Defendant Franciscan Health System, at all times material hereto, is a company  
6 that has continuously been doing business providing health care in the State of Washington and  
7 has continuously had at least fifteen (15) employees.

8 1.3 Defendant St. Joseph Medical Center, at all times material hereto, is a company  
9 that has continuously been doing business providing health care in the State of Washington and  
10 has continuously had at least fifteen (15) employees.

11 1.4 Defendants Franciscan Health System and St. Joseph Medical Center have  
12 continuously been employers engaged in an industry affecting commerce for the purposes of  
13 the relevant causes of action alleged herein.

14 1.5 Defendant, Karen Cook (hereinafter "Defendant Cook"), at all times material  
15 hereto, was a resident of Pierce County, Washington and is/was employed by Defendants,  
16 Franciscan Health System and/or St. Joseph Medical Center. All acts performed by Karen Cook  
17 were performed on behalf of Defendants Franciscan Health System and/or St. Joseph Medical  
18 Center in her individual and official capacities and on behalf of her marital community with  
19 Mark Cook.

20 1.6 Defendant Marcie Doyle (hereinafter "Defendant Doyle"), at all times material  
21 hereto, was a resident of Pierce County, Washington and is/was employed by Defendants,  
22 Franciscan Health System and/or St. Joseph Medical Center. All acts performed by Marcie

1 Doyle were performed on behalf of Defendants Franciscan Health System and/or St. Joseph  
2 Medical Center in her individual and official capacities and on behalf of her marital community  
3 with Marty Doyle.

4 1.7 Defendant Lisa Melchiorre (hereinafter “Defendant Melchiorre”), at all times  
5 material hereto, was a resident Pierce County, Washington and is/was employed by Defendants,  
6 Franciscan Health System and/or St. Joseph Medical Center. All acts performed by Lisa  
7 Melchiorre were performed on behalf of Defendants Franciscan Health System and/or St.  
8 Joseph Medical Center in her individual and official capacities and on behalf of her marital  
9 community with Jane or John Doe Melchiorre.

10 1.8 Defendants John Does 1 – 5, at all times material hereto, are individuals  
11 unknown at this time. All acts performed by John Does 1 - 5 were performed on behalf of  
12 Defendants Franciscan Health System, and/or St. Joseph Medical in their individual, marital  
13 and official capacities. Plaintiff reserves the right to amend her Complaint to add additional  
14 parties should it become necessary.

15 1.9 Defendants ABC CORP. and XYZ CORP., at all times material hereto, are  
16 corporations unknown at this time. All acts performed by ABC CORP. and XYZ CORP. were  
17 performed on behalf of Defendants Franciscan Health System and/or St. Joseph Medical Center.  
18 Plaintiff reserves the right to amend her Complaint to identify and/or add additional parties  
19 should it become necessary.

20 1.10 Upon information and belief, any additional persons who engaged in tortious  
21 actions against Plaintiff will be identified and joined later in this lawsuit.  
22

1 **II. JURISDICTION AND VENUE**

2 2.1 Jurisdiction is proper in the United States District Court pursuant to 42 U.S.C.  
3 §§12101, 12131, *et seq.*, 45 C.F.R. §160 *et seq.* and venue is proper in that the Defendants  
4 Franciscan Health System and/or St. Joseph Medical Center conduct business in Pierce County,  
5 which is located in the Western District of Washington at Tacoma.

6 2.2 This court has subject matter jurisdiction over the facts alleged herein as well as  
7 pendent jurisdiction pursuant to RCW 70.02 *et seq.* and RCW 48.43 *et seq.* as Defendants  
8 Franciscan Health System and/or St. Joseph Medical Center conduct business in Pierce County,  
9 which is located in the Western District of Washington at Seattle.

10 **III. NATURE OF THE CASE**

11 3.1 This is an action brought under (1) Title I of the Americans with Disabilities Act  
12 Amendments (ADA), 42 U.S.C. §§ 12101, 12131 *et seq.*; (2) Retaliation for Opposing an  
13 unlawful practice under HIPAA, 45 C.F.R. § 160, *et seq.*, RCW 70.02 *et seq.* and RCW 48.43  
14 *et seq.*; (3) Defamation. As a result of Defendants' unlawful behavior, Plaintiff has suffered  
15 damages in amounts to be proven at trial.

16 **IV. CAUSES OF ACTION**

17 **1. VIOLATION OF AMERICANS WITH DISABILITIES ACT**  
18 **(ADA), 42 U.S.C. §§ 12101, 12131, *et seq.* AGAINST**  
19 **DEFENDANTS FRANCISCAN HEALTH SYSTEM AND ST.**  
**JOSEPH MEDICAL CENTER**

20 Plaintiff adopts the preceding paragraphs by reference as though fully alleged and further  
21 states the following facts:  
22

1           4.1     Plaintiff was employed as a Relief Charge Nurse in the Medical Surgical  
2 Department from July 2001 through 2012. Later she became a Relief Charge Nurse in the  
3 Preoperative Surgical Department until Defendants fired her on February 16, 2016.

4           4.2     Plaintiff suffered from a disability due to debilitating back injuries and related  
5 surgeries and, at all times relevant hereto, Defendants were aware that Plaintiff suffered from  
6 numerous medical issues that required reasonable accommodations.

7           4.3     Plaintiff requested reasonable accommodations from Defendants and  
8 Defendants refused to accommodate Plaintiff's medical conditions.

9           4.4     Despite Plaintiff's medical conditions, Plaintiff was able to perform all essential  
10 job functions for Defendants.

11          4.5     Defendants refused to review Plaintiff's medical records brought to them by  
12 Plaintiff, which supported Plaintiff's request for medical accommodations as a result of her  
13 debilitating back injuries and surgeries. In spite of this disclosure, Defendants dismissed  
14 Plaintiff's medical concerns.

15          4.6     Defendants made derogatory comments about Plaintiff's medical conditions,  
16 joked about them and laughed at Plaintiff.

17          4.7     From 2001 until 2014, Plaintiff received exemplary job performance evaluations  
18 from her current and previous managers. While employed by Defendants for over ten (10)  
19 years, Plaintiff maintained her medical surgical certification, which demonstrates Plaintiff's  
20 expertise in that field.

21          4.8     Plaintiff worked under the supervision of Defendant Cook where she received  
22 two (2) highly commendable job performance evaluations in 2013 and 2014.

1           4.9     Plaintiff also received multiple commendations from co-workers and patients,  
2 including being nominated for the Daisy Award<sup>1</sup>. Plaintiff was previously selected to work  
3 with the medical director and ancillary staff on a discharge improvement project that was used  
4 hospital-wide.

5           4.10    After Defendants had harassed and discriminated against Plaintiff, she filed  
6 lawful complaints and her employment was ultimately terminated.

7           4.11    Plaintiff suffered damages as a result of Defendants' violations of the ADA in  
8 amounts to be proven at trial.

9           **2. RETALIATION FOR OPPOSING UNLAWFUL PRACTICE**  
10           **UNDER HIPAA, 45 C.F.R. § 160, RCW 70.02 et. seq. and RCW**  
11           **48.43 et seq. AGAINST ALL DEFENDANTS**

12           Plaintiff adopts the preceding paragraphs by reference as though fully alleged and further  
13 states the following facts:

14           4.12    Plaintiff overheard her manager, Defendant Cook, disclosing a co-worker's ("J.  
15 Doe") protected health information to Defendant Cook's subordinates, who at all times relevant  
16 hereto, were employees of Defendants Franciscan Health System and/or St. Joseph Medical  
17 Center.

18           4.13    Under the policies of Defendants Franciscan Health System and/or St. Joseph  
19 Medical Center, employees are not allowed to disclose anyone's protected medical information.  
20 Under policies of Defendants Franciscan Health System and/or St. Joseph Medical Center,  
21 employees are to report violations of the unlawful disclosure of protected medical information  
22 to Human Resources.

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<sup>1</sup> The Daisy Award is given to an employee for serving as an outstanding role model for the nursing profession.

1           4.14    J. Doe asked Plaintiff how she knew about her medical information, which was  
2 confidential since she had only told the Charge Nurse.

3           4.15    Plaintiff had a good faith belief that Defendant Cook's actions were unlawful,  
4 in violation of HIPAA and in violation of the policies and procedures of Defendants Franciscan  
5 Health System and/or St. Joseph Medical Center.

6           4.16    Plaintiff reported Defendant Cook's violation to Human Resources, as required  
7 by the policies and procedures of Defendants Franciscan Health System and/or St. Joseph  
8 Medical Center. Plaintiff believed this manner of opposition was reasonable and would not  
9 involve further unlawful disclosure of J. Doe's protected health information.

10          4.17    On or about July 22, 2015, Plaintiff emailed the Human Resources employee of  
11 Defendants Franciscan Health System and/or St. Joseph Medical Center, Chyrran Slama to  
12 inform how she had overheard Defendant Cook talking about J. Doe's protected medical  
13 information with her subordinates, which violated policies of Defendants Franciscan Health  
14 System and/or St. Joseph Medical Center and HIPAA.

15          4.18    Ms. Slama pressed Plaintiff for additional details about who Plaintiff was  
16 referring to and what was J. Does' protected medical information. Plaintiff was under the  
17 impression that the meeting with Ms. Slama was confidential.

18          4.19    Later that week, Defendant Doyle informed Plaintiff that she was aware Plaintiff  
19 reported Defendant Cook's violations and stated, "We don't know what we can talk about  
20 around here."  
21  
22

1           4.20 Plaintiff was shocked that Defendant Doyle knew about J. Doe's protected  
2 medical information and about Plaintiff's opposition to Defendant Cook's policy and HIPAA  
3 violations.

4           4.21 The following week, Plaintiff called in to confirm her shift, but no one was  
5 available to provide the information to Plaintiff. She called numerous times, but was forced to  
6 leave a voicemail.

7           4.22 On July 31, 2015, Defendant Cook summoned Plaintiff to her office and issued  
8 Plaintiff a written reprimand for not following the call-in policy, although Plaintiff had tried to  
9 call in and left a voicemail. Plaintiff attempted to show the text message she had sent to the  
10 charge nurse for that day, informing Defendant Cook that she had tried to call in and could not  
11 reach anyone, so Plaintiff had no choice but to leave a message. Defendant Cook refused to  
12 look at the text message and insisted on accusing Plaintiff of lying. This unwarranted discipline  
13 appeared to occur solely in retaliation for Plaintiff trying to follow Defendants Franciscan  
14 Health System and St. Joseph Medical Center's HIPAA and privacy procedures.

15           4.23 Defendant Franciscan Health System's and/or St. Joseph Medical Center's other  
16 employees also had problems reaching someone to call in, but they were not disciplined.  
17 Defendants retaliated against Plaintiff for her lawful opposition to a violation of company policy,  
18 HIPAA rules and Washington Law pursuant to RCW 70.02 *et. seq.* and RCW 48.43 *et seq.*

19           4.24 RCW 70.02.020 states that "a health care provider, an individual who assists a  
20 health care provider in the delivery of health care, or an agent and employee of a health care provider  
21 may not disclose health care information about a patient to any other person without the patient's  
22 written authorization.' The individual defendant's actions, as alleged above, are in violation of this



1 provision.

2 4.25 On August 1, 2015, Plaintiff informed Ms. Slama that she was being targeted  
3 unfairly and that it was not coincidental that Defendant Cook had written her up shortly after  
4 reporting the Defendants' own policy violation.

5 4.26 Plaintiff expressed concern to her Director, Defendant Melchiorre about  
6 Defendant Cook retaliating against her for reporting Defendant Cook's policy violations to  
7 Human Resources.

8 4.27 Plaintiff questioned whether she should file a grievance because the work  
9 environment was becoming hostile and it was becoming harder for Plaintiff to perform her job  
10 duties as Defendants' employee. Plaintiff began experiencing emotional and physical harm due  
11 to this hostile work environment.

12 4.28 HR representative Ms. Slama stated on August 17, 2015 in a memo to Plaintiff  
13 that, "I also want to remind you that employees who raise concerns of this nature are protected  
14 from reprisal for reporting concerns."

15 4.29 However, after Plaintiff reported the policy and HIPAA violations, until the date  
16 of her termination on February 16, 2016, Defendants' employees continued to harass,  
17 micromanage, and make false and defamatory accusations against Plaintiff in violation of  
18 HIPAA and RCW 70.02 *et. seq.* and RCW 48.43 *et seq.* Ultimately, Plaintiff's employment  
19 was terminated following her lawful complaints.

20 **3. DEFAMATION AGAINST ALL DEFENDANTS**

21 Plaintiff adopts the preceding paragraphs by reference as though fully alleged and further  
22 states the following facts:

1           4.30   Defendants placed several statements into Plaintiff's personnel file that were  
2           untruthful and defamatory relating to her work, knowing they would be provided along with  
3           her employment file to any employer with whom Plaintiff sought employment.

4           4.31   Defendants also sent emails to the Washington State Nurses Association, along  
5           with other third-parties, containing defamatory and false statements.

6           4.32   Plaintiff was unaware that defamatory statements as to her character were made  
7           until August 2016 when Plaintiff was pursuing a grievance with the union.

8           4.33   Defendants knew or recklessly disregarded that these statements were false and  
9           were highly offensive.

10          4.34   These false and defamatory statements were transmitted to prospective  
11          employers when Plaintiff applied for employment, and her employment file was requested as  
12          part of the employment process.

13          4.35   On numerous occasions, the employment process came to an end as soon as her  
14          employment file was received containing the false and defamatory statements that Defendants  
15          made. On one occasion, a previously scheduled job interview with Multicare Health Systems  
16          was cancelled upon receipt of Plaintiff's employment file, which contained these defamatory  
17          and false statements.

18          4.36   These statements were made for the sole purpose of damaging Plaintiff's  
19          reputation and/or placing her in a false light, causing her mental suffering.

20          4.37   These statements have made it difficult for Plaintiff to find work and have  
21          otherwise damaged her in an amount to be proven at trial.  
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- DATED this 15<sup>th</sup> day of April 2019.

By: /s/ Beverly Grant  
Beverly Grant, WSBA No. 8034  
Attorney for Plaintiff

By: /s/ Jeffery D. Bradley  
 Jeffery D. Bradley, WSBA No. 27726  
 Attorney for Plaintiff